

RESPONDENTS WITH MENTAL ILLNESS IN THE COURTROOM

WHAT ARE SIGNS OF MENTAL ILLNESS OR COGNITIVE IMPAIRMENTS THAT AN IMMIGRATION JUDGE MAY OBSERVE IN THE COURTROOM?

- **General appearance**
 - Grooming and hygiene may be disheveled, dirty or malodorous
 - Appearance may be odd such as bizarre hairstyle or inappropriately layered clothing
- **Speech**
 - Rate may be very fast and intrusive or hard to interrupt
 - Rate may be slow with long pauses
 - Response to questions may be partial or delayed
 - Failure to verbally respond
- **Behavior**
 - Activity level may be increased with impulsive actions, restlessness or agitation
 - Actions may be odd, purposeless or repetitive
 - Activity level may be slowed
- **Attitude**
 - Attitude may be irritable, demanding, argumentative or belligerent
 - Attitude may be suspicious, guarded or frightened
 - Attitude may be inappropriately friendly, informal
- **Memory, Attention, Orientation and Cognition**
 - Memory for recent events may have gaps or errors
 - Attention may drift or be easily distracted
 - May be unable to give the correct date (day, month and year)
 - Awareness of the purpose of hearing may be decreased or confused with criminal court
 - Ability to register, process or problems solve with new information may be limited
- **Emotional state**
 - Emotional state may be despondent or tearful
 - Mood may be elated or unduly cheerful
 - Expression may be blank or disconnected from proceedings
 - May appear hopeless or detached from outcome
 - May admit to suicidal thoughts or plans
- **Thought patterns**
 - Speech may be rambling or nonsensical
 - Speech pattern may be based on rhyming
 - Statements may be disconnected or difficult to follow
- **Perceptions and beliefs**
 - May express fears of plots, tampering with food, monitoring, harassment or bizarre statements
 - May admit to hearing voices or getting messages through the TV or radio
 - May talk to self or appear to respond to something others cannot see or hear
 - May boast of wealth, resources or high status connections
 - May claim special role or duty, including religious roles

What are some strategies that an Immigration Judge may use, in addition to Franco protections, for interactions with respondents suffering from mental illness or impairments?

- **Consider timing of the hearing**
 - Schedule or recall the case at a time with less activity and fewer distractions in the courtroom
 - Attempt to limit the number of people in the courtroom if embarrassing or culturally sensitive information will be discussed
- **Verbal communications**
 - Speak slowly using simple terms
 - Explain what is happening and what will happen next
 - Confirm understanding:
 - “Can you tell me what I just said but in your own words?”
- **Orient to reality**
 - Remind a respondent who is confused or out of touch with reality of the “here and now.”
 - “Just to remind you, we are in an immigration courtroom and I am the immigration judge who is going to hear about your case. Then I will make decisions about what happens next.”
 - “The court follows certain rules. Here is the court rule we are following now.”
 - Empathize with troubling perceptions or beliefs without agreeing that they are true.
 - “I hear that you are deeply concerned about an implant in your brain. I can see that is very distressing to you.”
- **Share observation and inquire for understanding**
 - “It appears to me that you are angry (sad, anxious, upset or distracted). Can you tell me if that is what you are feeling? Why do you feel that way?”
 - “Is it hard for you to focus on what I am saying?”
 - “I see that you are talking in a way I don’t understand. Can you help me understand? Are you hearing voices?”
- **Consider whether there are documents such as medical records that appear to be missing from the record**

OTHER CONSIDERATIONS

- Is this person getting treatment? Does the timing of the hearing coincide with medication side effects, such as sedation?
- If conducting a Judicial Competency Inquiry, is an order for a Forensic Competency Evaluation appropriate?
- If you find the Respondent is incompetent to represent him- or herself at the conclusion of a Judicial Competency Inquiry or a Competency Review hearing, in addition to the appointment of counsel, are any other additional safeguards necessary or appropriate?